

h can't --19. A method in accordance with claim 16 wherein said agent comprises a NS-specific antigen comprising the amino acid sequence of SEQ ID NO: *12, 13 or 14.--* *12, 13 or 14?*

REMARKS *h m p*

Claims 3-7, 9-13 and 16-19 presently appear in this case. No claims have yet been examined on the merits. The claims have been subject to restriction and election requirements. Reconsideration and withdrawal of these requirements and examination of all the claims now present in the case are hereby respectfully urged.

Restriction has been required between what the examiner considers to be two patentably distinct inventions, namely:

Group I, comprising claims 1 and 3-15 to the extent of claim 1, drawn to a a method of preventing or inhibiting axonal degeneration; and

Group II, comprising claims 2 and 3-15 to the extent of claim 2, drawn to a method of promoting nerve regeneration.

This restriction requirement is respectfully traversed.

The examiner states that the processes are distinct because they produce different effects, comprise different steps, and utilize different reagents. The examiner is of course incorrect, however, when stating that they comprise

different steps and utilize different agents, as claims 1 and 2 as originally filed have identical steps and identical agents, and they are administered to the identical person. Thus, they should not have been restricted from one another. Nevertheless, in order to obviate this rejection, claims 1 and 2 have now been deleted in favor of new claim 16, which claims both aspects of the present invention as a single method of ameliorating the effects of injury or disease on the central nervous system or peripheral nervous system.

1 { Nevertheless, in order to be responsive, applicant hereby elects with traverse the method of preventing or inhibiting axonal degeneration originally set forth in Group I. In view of the amendment of the claims, however, this election is now moot and applicant's election from among the claims presently of record is the invention of whatever group the examiner considers to include claim 16. As the examiner has not examined any claims subject to the previous election requirement, there has been no constructive election. If the examiner still wishes to require restriction, it is respectfully requested that the restriction requirement be reformulated in light of the present amendments to the claims, and applicants express desire to elect for initial examination the subject matter of new claim 16.

The examiner has also required election from among the species of subparagraphs (a)-(f) of claims 1 and 2, now new claim 16. Applicant hereby elects species 1(b) - method of delivering antigen. It is understood, however, that if a generic claim is found allowable, then the examiner will examine the other species.]

The examiner has also required restriction to a single species of NS-antigen selected from those listed in claim 13. Applicant hereby elects species 2(a) - myelin basic protein. It is understood, however, that if the species is found allowable, then the examiner will examine the entire genus.]

The examiner has further required election of a species of distinct injuries from those listed in claim 3. Applicant hereby elects the species 3(a) - blunt trauma. It is understood, however, that if the species is found allowable, then the examiner will expand the search to include the remainder of the species of the genus.]

Finally, the examiner has required election of a single species from among the diseases listed in claim 4. Applicant hereby elects the species 4(f) - glaucoma. It is understood, however, that the examiner will examine all the species if the first one is found allowable.]

In re Application No. 09/218,277

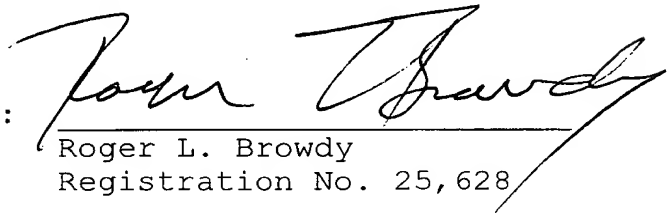
The examiner has required a listing of all claims readable on the elected species. All of claims 16, 17, 3-7, 9, 10, 13 and 19 are considered to read on one or more of the elected species.

The claims have been amended in order to place them in proper dependent claim form and in better condition for examination. Prompt examination on the merits and allowance of all the claims now present in the case are therefore earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicants

By:


Roger L. Browdy
Registration No. 25,628

RLB:al
624 Ninth Street, N.W.
Washington, D.C. 20001
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
F:\,Y\YEDA\EISSCHWARTZ1A\PTO\AmendmentB